



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 19, 1997

Ms. J. Middlebrooks  
Assistant City Attorney  
City of Dallas  
501 Police & Courts Building  
Dallas, Texas 75201

OR97-2525

Dear Ms. Middlebrooks:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110155.

The Dallas Police Department (the "department") received a request for a report or "crime prevention plan generated by Northwest ICP Division concerning crime at the AMC Theater Complex." You assert that the requested information is protected from disclosure pursuant to section 552.108 of the Government Code.

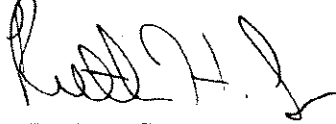
We note that the request for information was received by the department on August 15, 1997. The department did not seek a decision from this office until August 26, 1997. The department thus failed to request a ruling within the ten day time period required by section 552.301 of the Government Code for the request.<sup>1</sup> When a governmental body fails to timely seek a decision from this office, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). A governmental body must show a compelling interest to withhold the information to overcome this presumption. Open Records "Decision No. 71 (1975). Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2. In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the records at issue. Open Records Decision No. 195 (1978).

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<sup>1</sup>For requests received on or after September 1, 1997, section 552.301 allows a governmental body ten *business* days to request a decision from this office when it desires to withhold information under one of the enumerated exceptions in Chapter 552 of the Government Code. See Act of June 1, 1997, H.B. 951, §5, 75<sup>th</sup> Leg., R.S.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 110155

Enclosures: Submitted information

cc: Mr. Joe Munoz, Reporter  
KXAS -5  
3100 McKinnon  
Dallas, Texas 75201  
(w/o enclosures)